DETAILED ACTION

Response to Arguments

1. Applicants withdrew claims 28-38 and 81-87 with traverse (7/16/07) in response to the restriction requirement dated 6/27/07. Further, applicants petitioned the restriction requirement on 8/21/07. The petition has been reviewed and the reviewer informed the examiner that not enough rationale was provided for the restriction requirement.

   A telephone call was made to Mr. Dave Bennett (Reg. No. 32194) on 4/15/08 to request cancellation of the previously non-elected group of claims in order to place the application in condition for allowance. However, Mr. Bennett requested that a restriction requirement with detailed rationale be sent in writing.

   Hence, a more detailed restriction requirement follows.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

   I. Claims 1, 3-27, 39- 42, 44-58, 60-80, 88-93, 94-120 and 122-125, drawn to a searcher or search method for identifying one or more candidate delays for a receiver using delay tree, classified in class 375, subclass 148.

II. Claim 28-38 and 81-87, drawn to a selection method or apparatus for providing delays using a state machine (claiming details of the state machine), classified in class 714, subclass 21.

2a. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification and require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

2b. Further, claims 1, 3-27, 39- 42, 44-58, 60-80, 88-93, 94-120 and 122-125, deal with the details or operation of tree generator 166 and tree searcher 168 of Fig. 3, and deal with the operation as per flowchart of Fig. 5.

On the other hand, claims 28-38 and 81-87 deal with the operation and details of state machine 170 of Fig. 3. Although the state machine uses results (candidate delays identified by tree searcher 168) of tree searcher 168, it operates independently and as such, its operation is not dependent on the operations of tree generator 166 and tree searcher 168. In fact, by applicant's own admission, the state machine is optional (See Fig. 3). Since the state machine is optional, it is inferred that the receiver comprising tree generator 166 and tree searcher 168 (Fig. 3) is capable of operating without the state machine.

2c. Further, the combination of the tree generator 166 and tree searcher 168 with state machine in claims 103-107 can be diagramed as combination ABbr ("br" is an abbreviation for "broad"), and the subcombination of the state machine in claims 28-38 and 81-87 can be diagrammed as Bsp ("sp" is an abbreviation for "specific"). Bbr indicates that in the combination the subcombination is broadly recited and that the specific characteristics required by the subcombination claim Bsp are not required by the combination claim.

Since claims to both the subcombination and combination are presented, the omission of details of the claimed subcombination Bsp in the combination claim ABbr is evidence that the combination does not rely upon the specific limitations of the subcombination for its patentability. If subcombination Bsp has separate utility, the inventions are distinct and restriction is proper if reasons exist for insisting upon the restriction (see MPEP § 808.05).

2d. Thus, the inventions are distinct, each from the other because of the following reasons:

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

3. **Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined** even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected invention**.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after

the election, applicant must indicate which of these claims are readable on the elected invention.

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Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Contact Information

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vineeta S. Panwalkar whose telephone number is 571-272-8561. The examiner can normally be

reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour can be reached on 571-272-3021. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. S. P./

Examiner, Art Unit 2611

/David C. Payne/

Supervisory Patent Examiner, Art Unit 2611